Doc Code: AP.PRE.REQ

PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional) 01-1012

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on August 31, 2007 Signature _____ Typed or printed name Thomas E. Wettermann	Application Number 10/002,832	Filed November 15, 2001
	First Named Inventor Anoop Tripathi et al.	
	Art Unit 2616	Examiner Ly, Anh Vu H

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 41,523

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

_____ Signature

Thomas E. Wettermann
Typed or printed name

312-913-2138
Telephone number

August 31, 2007
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. 01-1012)

Application of:	)	
	)	
Anoop Tripathi et al.	)	Examiner: Ly, Anh Vu H
	)	
Serial No. 10/002,832	)	Group Art Unit: 2616
	)	
Filed: November 15, 2001	)	Confirmation No.: 7639
	)	
For: System and Method for Multi-Casting	)	Customer No.: 20306
Announcements	)	

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants request review of the Office Action mailed May 17, 2007 because the

Examiner, when responding to Applicants' arguments, made an error in law and an error in fact.

A Notice of Appeal is included herewith, along with the requisite fee of $500 associated

with the Notice of Appeal. Also enclosed is a Petition for Extension of Time under 37 C.F.R. §

1.136(a) (1 Month) along with the requisite fee.

No additional fees are thought to be presently due at this time; however, the

Commissioner is hereby authorized to charge payment of any additional fees required in

connection with the paper(s) transmitted herewith, or to credit any overpayment of same, to

Deposit Account No. 13-2490.

1.   Status of the Claims

Claims 1-9 and 11-27 are currently pending. Claims 1, 15, 25, 28, and 30 are

independent claim. Claims 16-17, 21, 26, and 27 stand objected to over new grounds of

informalities. Claims 1-9 and 16-27 stand rejected under 35 U.S.C. 102(e) on grounds of anticipation over U.S. Patent No. 6,456,601 ("Kozdon 601"). Applicant respectively requests review of these 102 rejections.

2. The Claimed Invention

Applicants' presently claimed invention is generally directed to multicasting information in networks. Applicants' Specification p. 2 lines 3-4. As Applicants' explain with respect to Figure 4, one example of an announcement server is described. An announcement server 400 includes an initiate announcements module 401, a broadcast announcements module 402, a determine announcement address module 404, and a communicate announcement address module 406. Applicants' Specification p. 20 line 22 – p. 21 line 2.

The determine announcement address module 404 receives a network parameters lead 405 and supplies a lead 409 to the communicate announcement address module 406. The communicate announcement address module 406 supplies a lead 407 to a proxy or other network device. The initiate announcements module 401 is coupled to the broadcast announcements module 402.

The initiate announcements module 401 determines when the announcements will be played to an address. This information is communicated to the broadcast announcements module 402 via the lead 409. In one example, announcements may be played continuously. However, other timing examples are possible. Applicants' Specification p. 21 lines 3 – 11.

The broadcast announcements module 403 broadcasts announcements to a memory location or memory locations via the lead 403. The memory locations located within the Announcement Server and server as bindings between the Announcement Server and the announcement available to external entities via multi-cast addresses. For example, the memory

locations may map an audio stream within the announcement server to RTP streams flowing out of the announcement server. Announcements may be in the form of any type of information. For example, the announcements may be ring tones, call-routing tones, call-hold tones, invalid destination tones, temporary unavailable tones, number-is-forwarded tones, and number is posted tones. Other examples of announcements are possible. The addresses are received via a lead 411 from the determine announcement address module 404. Applicants' Specification p. 21 lines 12 - 23.

The determine announcement address module determines the address or addresses whereby announcements are played. These addresses are communicated to the broadcast announcements module 402 and the communicate announcement address module 406. A network parameters lead 405 may communicate information that may affect the determination of the address. For example, network usage or memory usage may affect which memory location is used. In other examples, the address or addresses may be determined randomly.

The communicate announcement address module 406 may communicate the addresses determined by the determine announcement address module 404 to any entity that needs these addresses. For instance, a proxy may use these addresses. Applicants' Specification p. 22 lines 1 - 10. Applicants' independent claims are generally directed to such a broadcast server that determines when the announcements will be played to an address. Applicants' Specification p. 21 lines 3 – 11.

3.   Clear Legal Deficiency of Rejections

The factual deficiency of the rejections leads to a legal deficiency. In order to establish anticipation rejection of a claim over a reference, the Examiner must show that all of the claim limitations are found in a single reference. MPEP § 2131. "A claim is anticipated only if each

and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Applicants believe that the Examiner has failed to establish the requisite showing.

In this case, Kodzon '601 fails to disclose the steps of "determining when the announcement will be played to the address." Rather, Kodzon '601 is generally directed to audible telecommunication signaling, and more specifically, to a method and a system for providing call progress tones and audible announcement in a distributed, packetized network environment. Kozdon '601, Col. 1, Lines 7 – 11.

In the Office Action mailed August 22, 2006, citing Figure 3 and Step 46 of Kozdon, the Examiner contended that this reference taught "continuously broadcasting the announcement on the address." August 22, 2006 Page 4. Applicants' amended these claims to remove the "continuously broadcasting the announcement on the address" limitation and inserted the limitation of "determining when the announcement will be played to the address."

Now, in the Final Office Action, citing the very same Figure 3, Step 46 and Column 6, Lines 31-36, the Examiner contends that Kozdon '601 discloses the step of "determining when the announcement will be played to the address." August 22, 2006 Office Action p. 4.

On the contrary, Figure 3 merely refers to Step 46 as "Associate Signal With Addresses." This Step mentions nothing about determining when an announcement will be played, let alone when such an announcement would be played to an address. Column 6, Lines 31-36 of Kodzon '601 fails for similar reasons. This cited portion of Kodzon '601 merely discusses that stored tones and deliveries are associated with multicast addresses and that this may be performed by identifying locations in memory where progress tones and deliveries are stored. This cited

portion of Kozdon '601 mentions nothing about determining when an announcement will be played, let alone when such an announcement would be played to an address.

Because Kozdon '601 does not show or suggest all limitations expressly recited in Applicants' presently claimed invention, the Examiner made a legal error in rejecting the claims under 35 U.S.C. § 102(e).
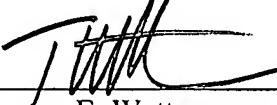
4.   Conclusion

For the foregoing reasons, Applicant submits that all of the pending claims should be allowed.

Respectfully submitted,

McDonnell Boehnen Hulbert & Berghoff LLP

Date: August 31, 2007   By: _____

Thomas E. Wettermann
Reg. No. 41,523